A DECADE AFTER DIVISIVE MEASURE OVERTURNED

AMENDMENT 2

Gay rights fight has largely shifted to marriage, work benefits, hate crimes law; sides just as far apart

By PERRY SWANSON
THE GAZETTE

Colorado's conflict over Amendment 2 ended a decade ago, closing one of the nation's most spectacular gay rights battles and opening new fronts in what many label a culture war.

State voters approved Amendment 2 in 1992, changing the state constitution to ban laws protecting gays from discrimination based on their sexual orientation.

The amendment sparked a nationwide backlash. Some activists dubbed Colorado a "hate state." Passions reached such a height that a year after the election, activists pelted a local church congregation with condoms and chanted "Gays and lesbians under attack in Colorado Springs."

Amendment 2 supporters said they meant no harm to gays but only wanted to prevent them from receiving "special rights" or legal protected status similar to that of women and racial minorities.

In a ruling May 20, 1996, the U.S. Supreme Court struck down Amendment 2 with a 6-3 vote, delivering a scorching critique of the motives of its authors, who were based in Colorado Springs.

"We find nothing special in the protections Amendment 2 withholds," wrote Justice Anthony Kennedy in an opinion for the majority. "These are protections taken for granted by most people either because they already have them or do not need them."

As the decision's 10th anniversary approaches, the national debate has shifted from broad questions over "protected status" for gays to narrower issues such as same-sex marriage, work benefits and hate-crime laws. The leading voice for Amendment 2, Colorado Springs businessman Will Perkins, now backs a constitutional amendment to prohibit the state from recognizing any union between same-sex couples.

Voters in 19 states have adopted similar rules for their constitutions, all of which passed by large margins, according to information compiled by the Heritage Founda-

SEE AMENDMENT 2 • PAGE 5

AMENDMENT 2 BASICS

- Colorado voters approved Amendment 2 on Nov. 3, 1992, banning laws that protect gays from discrimination based on their sexual orientation.

Here's the wording on the ballot: "Shall there be an amendment to Article II of the Colorado Constitution to prohibit the state of Colorado and any of its political subdivisions from adopting or enforcing any law which provides that homosexual, lesbian, or bisexual orientation, conduct, or relationships constitutes or entitles a person to claim any minority or protected status, quota preferences, or discrimination?"

- The statewide vote was 53.4 percent in favor. In El Paso County, 65.9 percent of voters favored the measure.
- Some activist groups, Hollywood celebrities and political leaders called for a boycott of travel to Colorado. Some called it the "hate state."
- Denver District Judge Jeffrey Bayless issued a temporary injunction in January 1993 preventing Amendment 2 from taking effect until a court could rule on a lawsuit seeking to strike it down. The Colorado Supreme Court in July upheld the injunction.
- Bayless declared Amendment 2 unconstitutional in a December 1993 decision.
- The Colorado Supreme Court struck down Amendment 2 in October 1994. Justice Gregory Kellum Scott wrote: "A protected liberty or fundamental right cannot be determined in the voting booth."
- The U.S. Supreme Court upheld the Colorado court and dealt a final blow to Amendment 2 in a decision issued May 20, 1996. A majority of the court said Amendment 2 violated the U.S. Constitution by denying basic rights to gays. Justice Antonin Scalia wrote in a dissenting opinion: "Today's opinion has no foundation in American constitutional law, and barely pretends to. ... Striking it down is an act, not of judicial judgment, but of political will."

GT 5/2/06

Rivera rejects nod to gay center

Advocacy of same-sex marriage still a problem, mayor says

By ED SEALOVER
THE GAZETTE

Continuing what has become an annual tradition, Colorado Springs Mayor Lionel Rivera on Monday rejected a request for a proclamation honoring the Pikes Peak Gay and Lesbian Center.

During 2003, his first year in office, Rivera issued a proclamation honoring the center's PrideFest celebration. But he refused to do so the past two years, saying that the group advocates gay marriage and that any endorsement of PrideFest constitutes an endorsement of that idea.

This year, the center tweaked its request and asked Rivera to honor its 25th anniversary as a way of noting the contributions of the center to the city. Once again, Rivera declined after consulting with the City Council, saying the center's advocacy of same-sex marriage continues to be an obstacle.

"Part of that service that they claim to provide is giving people a forum to endorse same-sex marriage," he said. "I think by signing this resolution, we would be agreeing with what they do."

Councilman Scott Hente said he thinks he is the only council member to disagree with the decision.

Center director Ryan Acker said he is disappointed because he removed PrideFest from the wording of his request to make it less controversial. The center will proceed with its celebration, including a dinner to honor past board members this year, he said.

Rivera is running for the 5th Congressional District seat and has had trouble garnering support from prominent social conservatives. He said his action had nothing to do with that, noting it is consistent with previous decisions.

Mayor Lionel Rivera: Congressional candidate has had trouble getting support from prominent social conservatives.

Acker said he hopes Rivera was thinking only about his role as mayor.

"I hope that when someone is in office to represent their community, they would do the job they were elected to do," Acker said.

AMENDMENT 2: Ruling on motivation behind a law was new, analyst says

FROM PAGE 1

tion, a conservative think tank. Voters in at least seven states will decide this year on constitutional amendments aimed at defining marriage as between one man and one woman.

For Ryan Acker, executive director of the Pikes Peak Gay and Lesbian Community Center, this is history repeating itself.

"Ten years later, after the overturning, they're trying to do something exactly the same, maybe costing taxpayers several million dollars to fight" legal challenges, he said. "It's kind of been like two steps forward, one step back."

Perkins offers a different take on the forces behind the continuing conflict. He was chairman of Colorado for Family Values, the Colorado Springs group that wrote Amendment 2.

"They try to keep the pressure on, they're very committed," Perkins said of gay activists. "They feel ... if they could just get the kind of acceptability that they desperately would like to achieve that they'll feel better about what they're doing. They are really driven to force their perspective on our culture, and they're good at it. But that doesn't make it right."

The U.S. Supreme Court decision in 1996 capped more than three years of bitter argument in Colorado and the nation.

Celebrities including Barbra Streisand, Cher and Martina Navratilova touched off part of the controversy by blasting the state at public appearances. Some industry groups called for boycotts of travel to Colorado. The U.S. Conference of Mayors moved its annual meeting from Colorado Springs to New York City. About 130 gay rights activists marched on the offices of The Gazette, complaining of biased coverage of gay issues on the news and editorial pages.

Democratic Gov. Roy Romer lamented the controversy in a column published in The Gazette in January 1993.

"Our state now is seen throughout the United States as a place where the civil rights of all citizens are not valued or protected," Romer wrote.

Perkins said that view was common among opponents of Amendment 2, but that it reflects a misunderstanding of what the amendment intended.

"The public understands, if homosexuals get beat up or their property damaged or what have you, they're protected by the same laws that protect everybody else, and they should be," he said.

By striking down Amendment 2, the Supreme Court set the stage for other significant decisions on gay rights, said Matthew Spalding, director of the Center for American Studies at the Heritage Foundation, a conservative think tank. Supreme Court justices cited the Colorado case as part of the basis for a 2003 decision striking down a Texas law banning sodomy.

Spalding said the decision on Colorado set a new standard for rejecting laws by ruling that Amendment 2 "seems inexplicable by anything but animus toward the class that it affects." Rulings on politicians' or voters' motivation for passing a law are new, Spalding said.

"It really is a significant shift in the way the court thinks about these questions," he said. "A majority (of voters) who might be motivated by cultural or sociological or religious reasons, the court can now say that's 'irrational' and 'based on animus,' which is a real problem for a self-governing regime."

Spalding said neither side in the gay marriage debate is eager for a ruling from the Supreme Court on the issue. The outcome is unpredictable, he said, even with two new conservative justices appointed since the Colorado decision. If the court followed the logic it applied to Amendment 2, laws against same-sex marriage would likely be thrown out, he said.

CONTACT THE WRITER: 636-0187 or perry.swanson@gazette.com

DIVERSITY BOARD

City's reputation suffers due to shunning of gays

Only in Colorado Springs would an elected official propose a cultural diversity advisory board and not invite representation from the gay community ("City to consider diversity advisers," Metro, May 6).

Last week's refusal by the mayor to sign a proclamation recognizing the 25th anniversary of the Pikes Peak Gay and Lesbian Community Center was a punch in the face. City Councilman Darryl Glenn's justification of not allowing gays and lesbians to be represented on the advisory committee is a knee in the gut to a minority that, for reasons unknown, still wants to live here, work here, pay taxes here, raise their kids here and contribute to this society.

All minority groups need to have access to their representatives, but if any minority needs a direct line to the City Council, it's the gays, lesbians, bisexuals and transgenders.

Next time you leave the Springs, ask people what they know about Colorado Springs. Chances are they'll respond with a statement referencing this community's intolerance of gays and lesbians.

If Glenn's proposed committee is approved, the gay population should be represented. A real advisory committee must be formed to include representation from every minority, including gays and lesbians, to help extinguish the reputation Colorado Springs has created for itself. Contact your representative to let him/her know that this advisory committee should represent every minority in Colorado Springs.

Bob Rebello
Colorado Springs

City has large gay population that must be heard

It was dismaying to read that the City Council sees no need to include lesbians and gays on a diversity council. My understanding is that such councils help educate the public as to the sameness we all share, as well as an appreciation and understanding of our differences. I can't think of a city that needs this inclusiveness more than Colorado Springs.

Some 40,000 gays and lesbians live in this city, working jobs, raising their children and paying taxes like everyone else, yet are never recognized. Whenever any people are seen through a negative and erroneous lens of stereotypes, fears and ignorance, prejudice and self-serving superiority will prevail.

Donna J. Arnink
Colorado Springs